REMARKS

Introduction – Claim Status

This amendment is submitted in response to the Office Action dated October 4, 2004, which indicates that claims 41-130 are pending, with claims 46-58, 60, 61, 62, and 74-77 being withdrawn from consideration. In the present amendment, claim 69 is amended for additional clarity. No new matter has been added.

Applicants respectfully request reconsideration in view of the herewith presented amendments and remarks.

The 35 USC §112, ¶2 Rejections

The Office Action rejects claims 62-73, 93, 114, 115 and 136 under 35 U.S.C. § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

More specifically, the Office Action asserts that claims 62, 68, 93, and 114 are indefinite because they include recitations having alternative language that is subject to more than one interpretation. Applicants respectfully traverse these rejections and submit that these claims satisfy 35 USC § 112, ¶ 2, because to one skilled in the art the limitations have a clear meaning that renders the claim scope reasonably ascertainable, *viz.*, the syntax of these alternative recitations is plainly and unambiguously understood as including disjunctive and conjunctive cases.

In general terms, each recitation identified as allegedly being indefinite has a syntactic/logical form of "A or B, or both A and B," where "A" and "B" each refer to a certain limitation or condition. Applicants recognize that rejections are sometimes made

to the alternative syntax "X or Y" because it may be deemed unclear as to whether the "or" is exclusive (i.e., embracing only the disjunctive cases, namely, where either X is true or Y is true, but not both X and Y) or whether it is inclusive (i.e., embracing disjunctive as well as conjunctive cases). Such ambiguity, however, is eliminated by the form of Applicants' allegedly indefinite recitations: "A or B, or both A and B."

Such a recitation clearly and unambiguously embraces disjunctive as well as conjunctive cases: A can be true and B false (i.e., only A is satisfied); alternatively, A can be false and B true (i.e., only B is satisfied); and, alternatively, both A and B can be true. The "A or B" recitation undoubtedly covers each of the two disjunctive A/B cases as plainly embraced by the "or" language. And the "or both A and B" plainly sets forth "both A and B" as one of the possible disjunctive cases relative to the case "A or B". As such, there is no question as to whether "A or B" includes the conjunctive case because the conjunctive case has been explicitly recited to avoid any such ambiguity. Stated differently, regardless of whether each "or" is deemed to be inclusive or exclusive, and regardless of which "or" is parsed first, Applicants respectfully submit that the recitation "A *or* B, *or* both A and B" unambiguously embraces any case where at least one of the conditions A and B is satisfied. As such, Applicants respectfully submit that the §112 rejection of claims 62, 68, 93, and 114, and claims dependent thereon, should be withdrawn.

The Office Action also asserts that in claim 69 the recitation "video and data included in the broadcast signal" lacks antecedent basis. Although Applicants maintain that one skilled in the art would understand the antecedent basis implicit in this recitation, to obviate this rejection Applicants have amended claim 69 to further clarify the antecedent basis for this recitation.

In view of the foregoing, Applicants respectfully request withdrawal of the rejections under 35 USC §112, ¶2.

The 35 USC §102(a) Rejection

The Office Action states that claims 41-45, 62-73, and 78-138, as best understood by the Examiner, are rejected under 35 U.S.C. §102(a) as being anticipated by Handelman (European Pat. No. EP0639918A1).

More specifically, citing the entire Detailed Description section of Handelman, the Office Action asserts, in part, the following:

> The broadly claimed structure can be interpreted as the CATV systems of Handelman. Figs. 1-6C of Handelman broadly discloses the system for remote communication between the host facility and remote client or the computer-readable medium containing instructions for integrating a continuous signal of images and sounds with a data signal as a signal in a host server communicably connected to a broadcasting facility that transmits the signal such that the signal is capable of being received by a plurality of client facilities (14, 114) comprising receiving at the host data from at least one of the plurality of client devices . . .[and] providing at the host at least a portion of the received data into a signal provided for transmission to the plurality of client devices as a broadcast signal . . . combining the received data defining actions as at least a part of the signal . . . wherein the at least a portion of the received data that is provided into the signal provided for transmission is addressed to a specific one or more of the plurality of client devices, and the host receives data from the plurality of client device via a public or private network, and the signal is provided for transmission by broadcast through the atmosphere (12, 112) or over a cable network (124) . . . .

For at least the reasons presented below, Applicants respectfully traverse this rejection.

Applicants' invention requires, *inter alia*, an apparatus or method operative in integrating data received from at least one of a plurality of clients into a signal that is

provided for broadcast transmission such that the signal is capable of being received by the plurality of clients. More specifically, claim 41 requires, *inter alia*, "at least one host server that integrates data received from at least one of a plurality of client computers with a first signal to provide a signal for broadcasting such that the signal is capable of being received by a plurality of client facilities." Additionally, claim 59 is directed to "a computer-readable medium containing instructions . . . operative in implementing a method comprising . . . combining the received data defining actions [of at least one of a plurality of client facilities] as at least a part of the signal that is transmitted by the broadcasting facility" such that the signal is capable of being received by the plurality of client facilities. *See, also*, Claim 78 ("providing at the host at least a portion of the received data into a signal provided for transmission to the plurality of client devices as a broadcast signal"); claim 102 ("at least one processor that . . . is operative in providing at least a portion of the received data [from at least one of said plurality of client devices] into a signal provided for transmission to the plurality of client devices as a broadcast signal."); claim 129 ("wherein the host facility . . includes at least a portion of the received data . . . in the combined signal that is provided for transmission as the broadcast signal"); and claim 130 ("selectively integrating at least a portion of the received data [from at least one of a plurality of client facilities] into the signal . . . for transmission to the plurality of client facilities").

Similarly, Applicants claimed invention is directed to clients (or client implemented methods) that provide data to a host such that the data may be integrated into a signal provided for broadcast transmission such that the signal is capable of being received by the clients. Particularly, claim 62 requires, *inter alia*, "clients that . . . intermittently transmit data to the host, the transmitted data being provided to

the host such that the clients are capable of specifying at least a portion of the transmitted data as being intended for incorporation into the broadcast signal." Also, claim 119 is directed to a processor-implemented method for facilitating remote communication of a device with a host system, the method comprising "transferring to the host system . . . information representative of information input by the user via the user interface, the transferred information being provided to the host system such that at least a portion of the transferred information is capable of being specified for incorporation into the broadcast signal transmitted by the host system."

Thus, Applicants' claimed invention requires, *inter alia*, an apparatus or method operative in providing for client/user originated data to be integrated into a signal that is provided for a broadcast transmission such that the signal is capable of being received by a plurality of clients/users. Handelman, however, does not teach or suggest, *inter alia*, such client/user originated data being integrated into a signal that is provided for broadcast (e.g., point-to-multipoint) transmission. Said differently, Handelman fails to teach or suggest a signal that is provided for broadcast transmission to the client devices, and that contains data received from at least one of the client devices.

Handelman relates to a CATV system having additional applications such as facsimile, electronic-mail (e-mail), voice-mail and mail ("mail" being defined to include "bills, credit card statements, advertising, messages from institutions, etc."). See col. 2, ll. 3-18. In the embodiment of Figures 1-3B, Handelman teaches that a CATV network 10 includes a program transmitter 11 coupled through a satellite communication link 12 with a multiplicity of subscriber units 14, each of which has a television 16 and a CATV interface unit 18. For transmission to the subscriber units via the CATV network, a coded addressed information unit 22 provides information (e.g.,

fax, e-mail, voice-mail, mail) in an encrypted form together with an address or addresses that identify one or more subscribers who are the intended recipients of the information. The CATV interface unit 18 at each subscriber unit 14 includes an information decoder that is operative to decrypt only that information from generator 22 which is addressed thereto. The decrypted information may be stored at the subscriber unit 14 for subsequent viewing by the subscriber. In this way, information from a data supplier/source (e.g., "junk mail" from an advertiser; billing statements from a bank) may be selectively addressed to subscribers by transmission via the CATV network. See col. 5, l. 39-col. 9, l. 43, including, col. 6, ll. 11-39, and col. 8, ll. 45-57.

In Figures 4-6C, Handelman shows another embodiment of a CATV system that provides for a data supplier to send information to one or more subscribers. In this embodiment, the CATV network 110 is a *combination telephone*-radio frequency network. CATV network 110 includes a program transmitter 111 coupled through a satellite communication link 112 with a multiplicity of subscriber units 114. Each subscriber unit 114 has a television 116, and a CATV interface unit 118 having associated therewith a telephonic modem 119 and a receive-transmit fax unit 120, which may be part of the modem 119 (e.g., a fax-modem). The CATV interface unit 118 may be connected via the fax unit 120 to *a standard telephone network* 124 for voice, data, and fax communications. A keyboard 130 may also be associated with the CATV interface unit 118 to produce faxes to be sent to fax machines or fax-modems via the CATV network. Facsimile, E-mail, voice-mail and mail data may be provided to the subscriber units 114 from an information generator 127, such as a standard fax machine 128 or a computer and associated modem 129, which are coupled to the telephone network. In this way, conventional CATV programming may be received by a

subscriber while data (faxes, e-mail, voice-mail, and mail data) is sent by a data supplier to the subscriber via the telephonic communications link. See, col. 9, l. 44 to col. 13, l. 13, including, col. 11, l. 56-col. 12, l. 4.

In stark contrast to Applicants' claimed invention, in Handelman none of the signals transmitted to the subscriber units contains any data (e.g., address data and/or text data, etc.) provided by a subscriber unit. More specifically, in the embodiment of Figures 1-3B, Handelman does not even teach or suggest that a subscriber unit 14 is capable of sending any information, neither to other subscribers nor to the coded addressed information generator 22. Rather, with respect to information/data transmission/reception, Handelman only describes these subscriber units 14 as receiving the transmission provided via communication link 12; *a fortiori*, there can be no signal that is provided for broadcast transmission to the subscribers and that contains data received from at least one of the subscribers.

Similarly, although Handelman's embodiment of Figures 4-6C allows subscribers to produce and send faxes to fax machines or fax-modems via the CATV network, Handelman simply does not teach or suggest that these faxes (or any other data that may be sent by a subscriber) may be integrated into a signal that is provided for broadcast transmission to the subscribers. Particularly, Handelman describes such faxes as being sent to other fax machines or fax-modems only via the standard telephone network (e.g., a switched connection between the calling and called party) portion of the CATV network, and Handelman neither discloses nor suggests integrating this fax data into the transmission over communication link 112, nor otherwise integrating this fax data into any signal that is provided for broadcast transmission to a

plurality of subscriber units.

Moreover, in this embodiment of Handelman's system, data/information (facsimile, e-mail, voice-mail and mail data) that may be provided to the subscriber units 114 from information generator 127 is also sent over the standard telephone network portion—not via the communication link 112—of the CATV network. As described, in this embodiment, Handelman uses the communication link 112 for transmitting conventional television programming, while using the telephone network link for sending data/information from data suppliers to subscribers.

More specifically, as explained by Handelman with reference to a block diagram of each subscriber unit's interface unit 118 (Figure 5), data received by and/or sent to a subscriber is communicated via the telephone network:

> CATV interface unit 118 receives facsimile data, E-mail data, voice-mail data and mail data as well as communication management data *from telephone network 124* (Fig. 4), forming part of CATV network 110, via a receive-transmit fax-modem unit 150 and a *standard telephone link 152.*
>
> . . .
>
> [P]rocessor 156 also receives data input by a subscriber via keyboard 130 (Fig. 4) *and prepares it in a suitable format for transmission as fax, E-mail or mail data via telephone link 152.*

That the data (namely, faxes, e-mail, voice-mail and mail data) is sent by data suppliers to subscribers over the telephone network portion of the CATV network—not the communication link 112—is further evidenced by the fact that "[i]f the *telephone line* at the subscriber is busy . . . the data is not sent,", col. 12, ll. 1-4 (emphasis added), and "[i]f the subscriber *interrupts transmissions by picking up the telephone*, the data transmissions are interrupted," col. 12, ll. 31-44 (emphasis added). Thus, even

assuming *arguendo* that a subscriber could send a fax or e-mail to the information generator 127—which, Applicant, maintains Handelman does not disclose or suggest—such data transmissions would, as per the design and operation of the Figure 4-6C embodiment, be confined to the telephone network portion of the CATV network, and Handelman simply does not teach or suggest that such data could be provided for transmission to a plurality of the subscriber units via communication link 112 or otherwise. And, as mentioned above, Handelman does not even disclose or suggest integrating subscriber originated faxes into any signal that is sent to other subscribers, by broadcast transmission or otherwise.

It is evident, then, that Handelman's embodiment of Figs. 4- the transmissions via the communication link 112 are devoid of any subscriber originated data, and there is simply no signal that is provided for transmission to a plurality of subscribers and that contains subscriber originated information/data.

Accordingly, for at least the foregoing reasons, Applicants respectfully submit that Handelman neither teaches nor suggests, *inter alia*, providing for client/user originated data to be integrated into a signal that is provided for a broadcast or point-to-multipoint transmission such that the signal is capable of being received by a plurality of clients/users, as claimed by Applicants.

Accordingly, Applicants respectfully submit that Applicants' claimed invention is patentably distinct over Handelman, and thus the §102(a) rejection should be withdrawn. Applicants further submit that the dependent claims recite limitations that provide additional and independent bases for patentable distinction over the cited prior art, and Applicants respectfully reserve the right to present these grounds at a later date.

Docket No. 4174-4001US1 **Application No 09/185,703**

Conclusion

In view of the above amendments and remarks, Applicants respectfully submit that the application is in condition for allowance. Reconsideration and withdrawal of the Examiner's rejections is respectfully requested and allowance of all pending claims is respectfully submitted.

If any outstanding issues remain, or if the Examiner has any suggestions for expediting allowance of this application, the Examiner is invited to contact the undersigned at the telephone number below.

The Examiner's consideration of this matter is gratefully acknowledged.

Authorization

Applicants believe that no fees or petition of time is due for filing this paper. However, should an extension of time be necessary, such is hereby petitioned, and the Commissioner is hereby authorized to charge any additional fees which may be required for this paper, or credit any overpayment, to Deposit Account No. 13-4500, Order No. 4174-4001US1.

Respectfully submitted,

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